

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

United States District Court  
Albuquerque, New MexicoMitchell R. Elfers  
Clerk of CourtUnited States of America  
v.

ELIJAH I. TOUCHINE

Year of birth 2000

Case No.

23mj1173

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 22, 2023 in the county of McKinley in the  
       District of New Mexico, the defendant(s) violated:

## Code Section

## Offense Description

18 U.S.C. §1153

Offenses committed within Indian country

18 U.S.C. §924c

Use of a firearm during a crime of violence

18 U.S.C. §113(a)(3)

Assault with a dangerous weapon, with intent to do bodily harm

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Sean Cave Special Agent

Printed name and title

Telephonically sworn and electronically signed

Date: July 23, 2023City and state: Farmington, New Mexico

Judge's signature

B. Paul Briones, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT  
FOR ELIJAH TOUCHINE**

I, Sean Cave, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND BACKGROUND OF THE AFFIANT**

1. I make this affidavit in support of the criminal complaint of ELIJAH I. TOUCHINE (year of birth 2000,) (hereafter "TOUCHINE"), for violations of 18 U.S.C. §1153 Offenses Committed within Indian Country, 18 U.S.C. §924c Use of a Firearm in a Crime of Violence, and 18 U.S.C. §113(a)(3) Assault with a Dangerous Weapon with Intent to do Bodily Harm.
2. I am a Special Agent with the FBI and have been so employed since July 2014. I am currently assigned to the Albuquerque Field Office, Gallup Resident Agency. My primary duties as a Special Agent with the FBI includes investigating federal crimes occurring within our jurisdiction, violent crimes, assaults, homicide and crimes occurring within the Federally recognized Indian territories. I have gained experience in the conduct of such investigations through previous case investigations, formal training, and in consultation with law enforcement partners in local, tribal, state, and federal law enforcement agencies. As a Federal Agent, I am authorized to investigate violations of the laws of the United States and have authority to execute criminal complaints and search warrants issued under the authority of the United States.
3. The statements contained in this affidavit are based upon my investigation, training and experience, as wells as information provided by other law enforcement officers or from other reliable sources. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. The following affidavit details facts learned though a rapidly evolving investigation occurring on July 22, 2023 involving TOUCHINE, the Navajo Police Department,

and the FBI. This investigation is ongoing and the below details fact known to the FBI as of this time in the investigation. I have set forth only the facts which I believe are necessary to establish probable cause to support a criminal complaint against TOUCHINE.

**FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE**

4. On the morning of July 22, 2023, a Navajo Police Department (NPD) Criminal Investigator (CI) Custer Bryant contacted your Affiant regarding a shooting which occurred in the vicinity of 56B Becenti Trail Road, Church Rock, New Mexico. Your Affiant responded to a location off highway 566 in Church Rock, New Mexico in the vicinity of 56B Becenti Trail Road where responding law enforcement officers from NPD were coordinating an ongoing response at a Command Post. At this location your Affiant learned that the NPD tactical unit was in a foot pursuit of an individual, likely TOUCHINE, in the mountains and mesas surrounding 56B Becenti Trail Road. TOUCHINE was suspected of shooting at Law Enforcement officers earlier in the morning of July 22, 2023.

5. At the Command Post, NPD Officer Lieutenant (Lt.) Ron Williams informed your Affiant that throughout the morning pursuit, Lt. Williams called a phone number that he was told belonged to TOUCHINE. The person who answered the phone, who was believed to be TOUCHINE, stated over a series of calls that he wanted to kill the police and that he had more firearms at his home he would use on the police.

6. A review of the NPD call log regarding the incident on July 22, 2023 showed that a call for service came into NPD dispatch at July 21, 2023, at about 11:05 pm. The call log reported “[Redacted Caller Name] STATING ELIJAH TOCHINE SHOOTING IN THE AREA, CP [Calling Party] IS NOT WITH THE MALE BUT GAVE HSE DESCRIP OF A PINK HOUSE WITH GRAY ROOF.” NPD CI Bryan identified TOCHINE’s residence to your Affiant

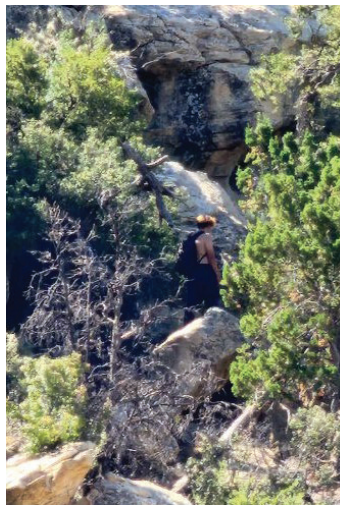
which was a pink house with a grey roof. TOCHINE's driver's license lists 56B Becenti Trail Road as his residence. A further review of the call log indicated that the situation involving TOUCHINE escalated when a caller to NPD Dispatch reported that "MALE SHOWED UP WITH A HAND GUN THREATENING TO HURT SOMEONE AT RESIDENCE," and another caller reported "ELIJAH TOUCHINE HAS A POSSIBLE 9 MM AND SHOOTING IN THE AREA, MALE KEEPS WALKING AROUND THE LOCATION, CURRENTLY WALKING BACK TO HIS HOUSE." Ultimately, the call log reports that at about 1:00 am on July 22, 2023, Law Enforcement officers arrived to investigate the threats and shots fired.

7. NPD Patrol Officer Christopher Cohoe informed your Affiant that he responded to the call for service off Becenti Road at about 1:15 am. Upon arrival, Officer Cohoe found New Mexico State Police (NMSP) Officers and another NPD Officer were already on scene and about finished with their investigation from the call for service identified above. NMSP and NPD found shell casings but not TOUCHINE, who had been identified as shooting in the area by a caller to NPD dispatch, as described in the preceding paragraph. NMSP departed the scene shortly after Officer Cohoe's arrival. Officer Cohoe stated that as he and the other NPD officer prepared to depart the scene, Officer Cohoe indicated they came under fire from an unknown direction and unknown assailant. Officer Cohoe described hearing bullets hitting the dirt around him, the whizzing of bullets over his head, and gun shots in the area as he took cover with his vehicle. At this moment, Officer Cohoe and the other NPD officer were the only law enforcement officers being fired upon and they took tactical action to protect themselves and each other from the incoming fire.

8. Officer Cohoe reported that after hearing the radio calls for shots fired at NPD, NMSP returned to the scene to support the NPD officers. Officer Cohoe further informed the FBI

that a foot pursuit followed of the unknown assailant. The pursuit took place during night time in a rural area absent any significant artificial light. During that pursuit, which led them up a canyon, Officer Cohoe heard shots fired at himself and the other law enforcement officers but due to the dark conditions he was unable to identify where the shots were being fired from.

9. At the Command Post, your Affiant learned that the NPD tactical response team was called to service and assist with a pursuit of the shooter, likely TOUCHINE, in the mountains and mesas in the vicinity of 56B Becenti Trail Road. At about 12:00 pm on July 22, 2023, NPD officers discontinued the search for TOUCHINE in the mountains, however, one of the search team members was able to capture a photo of the individual in the mountains believed to be TOUCHINE. That photo showed a shirtless male with a light and dark colored hair, wearing black pants and black backpack. See below for photo of the male in the mountains and the driver's license photo for TOUCHINE:



10. TOUCHINE's driver's license photo showed TOUCHINE to have light and dark hair.

11. During the investigation and efforts to locate TOUCHINE, the FBI received information about TOUCHINE's whereabouts. Coordinated efforts with Gallup Police

Department (GPD) resulted in TOUCHINE being detained by GPD Officers without incident walking out of Peacemaker Guns & Ammo located at 611 W Coal Ave, Gallup, NM 87301. The time TOUCHINE was detained was about 2:15 pm on July 22, 2023. GPD reported to the FBI that TOUCHINE was with a female with the initials, C.L., year of birth 1960, hereto referred to as "Witness 1," who was later identified as the grandmother to TOUCHINE. GPD further reported to the FBI that TOUCHINE and Witness 1 arrived at Peacemaker Guns and Ammo in a gold Chevrolet Cavalier, New Mexico license plate 280WZG. It was further learned that the Witness 1 was in the midst of buying a firearm at Peacemaker Guns & Ammo when law enforcement arrived and detained TOUCHINE.

12. On July 22, 2023, your Affiant conducted an interview of TOUCHINE. TOUCHINE was interviewed in the passenger seat of an FBI vehicle and was restrained with handcuffs for officer safety. Your Affiant read aloud the advice of rights to TOUCHINE preceding the interview. TOUCHINE agreed to speak with the FBI. During the interview, TOUCHINE initially stated that with regards to wanting to have a shootout with the police, TOUCHINE replied "not really I was shooting in the air." During the interview, TOUCHINE referred to himself as the devil and that God told him to do it, and that he "wanted to kill every fucking police." When asked if that was his motivation for shooting at the police TOUCHINE replied in the affirmative. TOUCHINE identified himself as a fentanyl user but that he was not under the influence during the interview. When asked for the location of the handgun, TOUCHINE replied that it's in the black bag, gesturing towards the gold Chevrolet Cavalier parked in the vicinity of the vehicle where the interview took place. Your Affiant asked why TOUCHINE was trying to buy a gun today, TOUCHINE replied to "I don't know, shoot up any cop I see." TOUCHINE replied with "yeah" when your affiant asked if TOUCHINE just used



the pistol today and that's what he shot at the cops with, further identifying that the gun would be located inside the car, the gold Chevrolet Cavalier and that it was a .40 caliber handgun.

13. During the continued questioning of TOUCHINE, he referenced that during the pursuit the army was waiting for him, that it was fun, and he prayed to God the whole time. TOUCHINE said that at the end he was dying and that he was hot and burning up. TOUCHINE did not know how many cops he was shooting at but knew it was a lot. With regards to the purchase of the gun at Peacemaker Guns and Ammo TOUCHINE stated that he forced, through threats of violence, his grandmother to buy the firearm.

14. Away from the command post was a scene identified by CI Bryant that NPD officers identified as the location where they believed they were shot at. This location was a dirt road that was for the most part straight. This dirt road leads in part to 56B Becenti Trail Road. At this crime scene, CI Bryant reported to have collected about 9 casings of Sig S&W 40 caliber shell casings from the dirt road about 50-100 yards from where the NPD officers were stopped and reported to initially taking fire. In my training and experience, the review of this crime scene and the initial reporting from CI Bryant showed that if the TOUCHINE was in fact shooting in the air and not at the officers, the proximity to the officers would have been extremely reckless and dangerous to the police officers. As an experienced Law Enforcement Officer, I would have found it reasonable for the NPD officers to be in fear for their safety, even if TOUCHINE was firing in the air.

15. In my training and experience and based on the facts of this investigation at this time, I believe TOUCHINE was not shooting in the air but instead taking aimed fire at the law enforcement officers because the officer reported hearing the whizzing of rounds overhead and impacts into the dirt near him. This would amount to engaging in assault with a deadly weapon.

TOUCHINE further repeatedly stated a desire to kill police officers and would therefore have been committing this assault with the intent to cause serious bodily injury.

16. On July 22, 2023, the FBI conducted a search of a gold Chevrolet Cavalier, New Mexico license plate 280WZG. During the search, FBI Agents found a black backpack containing a black Taurus handgun in .40 S&W caliber and the driver's license for TOUCHINE.

17. Following the interview of TOUCHINE, your Affiant interviewed Witness 1, who was not under arrest and was advised that she was free to leave at any time during questioning. Witness 1 advised she was sober for this interview. Witness 1 informed the FBI that earlier in the day she picked up her grandson, TOUCHINE, off a dirt road in the mountains. Witness 1 was aware before picking up TOUCHINE that he was wanted by the police. After picking up TOUCHINE, Witness 1 learned from TOUCHINE that he shot at the cops but did not really aim at them, shooting in the air, and that he was just playing with the guns. Witness 1 described that she gave TOUCHINE the gun which he used on July 22, 2023, identifying a photo of the black Taurus handgun in .40 S&W caliber found in the gold Chevrolet Cavalier as her firearm. Witness 1 also brought TOUCHINE water and Gatorade as he described needing fluids. After being picked up, Witness 1 and TOUCHINE drove to Gallup to eat and cool down, and ultimately ending up at the gun store, because TOUCHINE wanted an "AR." When asked why TOUCHINE wanted an AR, Witness 1 said that she knew TOUCHINE wanted the rifle to shoot prairie dogs and coyotes. When pressed with further questions about the purchase of the AR rifle, Witness 1 believed that TOUCHINE would use it towards the cops. They planned to buy ammunition for the gun as well.

18. Through the investigation, there were no reported injuries.

### **JURISDICTIONAL STATEMENT**



19. NPD reported that TOUCHINE was a Navajo Indian.
20. NPD Officer Cohoe reported that he was an enrolled Navajo Indian.
21. NPD reported that the location of the shooting was located within the boundaries of the Navajo Nation and is Indian Country as defined in Federal Law.

**CONCLUSION**

22. Based on this information, I believe there is probable cause to believe that TOUCHINE committed the offenses of 18 U.S.C. §1153 Offenses Committed within Indian Country, 18 U.S.C. §924c Use of a Firearm in a Crime of Violence, and 18 U.S.C. §113(a)(3) Assault with a Dangerous Weapon with Intent to do Bodily Harm.

23. This affidavit has been reviewed by Assistant United States Attorney Elisa Dimas for legal sufficiency.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



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Sean Cave  
Special Agent  
Federal Bureau of Investigation

Telephonically subscribed and sworn to before me  
this 23rd day of July, 2023:

*B. Paul Briones*

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UNITED STATES MAGISTRATE JUDGE  
Farmington, New Mexico